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November 21, 2017

VIA ECF

Hon. Gary R. Brown
United States District Court
Eastern District of New York
100 Federal Plaza
Central Islip, NY 11722

RE: Louis Piccolo v. Top Shelf Provisions Co. Inc., et al.
Case No.: 2:16-cv-6930 (JFB) (GRB)
MLLG File No.: 141-2017

Dear Judge Brown:

This letter shall serve as an update on our ongoing quest to resolve discovery disputes between the parties. We met and conferred after the court conference yesterday and continued our conversation today via telephone.

Defendants have agreed to resubmit answers to Interrogatory No. 1, 8, 9, 10, and 11. Defendants also agreed to review the interrogatories and subparts in order to potentially answer additional interrogatories. In addition, Defendants have agreed to revise their response to document demand No. 2. Plaintiff indicated that he has not received the last six months of plaintiff's payroll records. Defendants agreed to continue reviewing their files to see if there are any additional payroll records in their possession, custody or control. Defendants have responded to all other document demands and requests for admissions. If Plaintiff has an issue with such responses, he will inform Defendants or the Court. Defendants have agreed to do the above by December 1.

On the other side of the coin, Plaintiff has agreed to respond to Defendants' discovery demands now that Defendants have excluded the term "any and all" by December 1. Plaintiff indicated that all documents in his possession have already been produced.

There is still the lingering issue of Plaintiff's deposition. Plaintiff has not agreed to present himself for a deposition until at least after Defendants have full responded to all discovery. Plaintiff also indicated that he may not be produced until much later than that depending on whether or not any individuals opt into the case. Plaintiff has also indicated that he may not appear for deposition until after all Defendants have been deposed. On September 8, we noticed Plaintiff to appear for his deposition on October 26 and he failed to appear. We ask the court to order Plaintiff to appear for his deposition at our office by December 31.

We thank this Court for its time and attention to this matter.

Dated: Lake Success, New York
November 21, 2017

Very truly yours,

Joseph M. Labuda

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